UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,624	10/09/2001	Alfred T. Tabayoyon JR.	SWIF 2123	8468

7812   7590   08/05/2005

SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

EXAMINER
AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Advisory Action ***Before the Filing of an Appeal Brief***	09/974,624	TABAYOYON ET AL.
	Examiner Joseph E. Avellino	**Art Unit** 2143	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 July 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>arguments are not persuasive, see contiuation sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

U.S. Patent and Trademark Office
PTOL-303 (Rev. 4-05)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20050806

Applicant's arguments presented July 20, 2005 have been fully considered but they are not persuasive.

Applicant argues, in substance, that (1) McMillan does not disclose determining verification data that the receiver actually viewed the document image, rather that one server tells another server that it has sent emails (2) McMillan disclsoes the server logging the start of a program on a server and not logging an acknowledgement from a client computer that it has successfully displayed an image (3) McMillan teaches that the reciever has to sign into a document server, not an email server, (4) it is not inherent that any HTTP GET requests from a reciever computer to a server is an address which indicates where the server is to route a document referenced by the request, and that therefor and HTTP GET requests verifies that the reciever has successfully displayed the document.

As to point (1) Applicant must have an understanding as to how Internet content works to understand the system of McMillan. Once the email has been received by the client, a request sent by the client corresponding to the document wishing to be viewed. Therefore once the document has been opened (i.e. the email has been opened by the client email viewing software), they can respectfully select the link. Once, and only once, the recipient has successfully viewed the email, can the link be selected. Once this link is selected, the server logs this action and it is then determined that the recipient has successfully viewed the email. By this rationale, the rejection is maintained.

As to point (2) the server logging the start of the program can only happen if the user has successfully viewed the email document. By this rationale, the rejection is maintained.

As to point (3) Applicant is not claiming that the document server has a log in system, rather that a recipient must sign on to a server computer. Applicant does not distinguish between a document server nor an email server. Furthermore an email server is a document server since an email is a document. By this rationale, the rejection is maintained.

As to point (4) this is upheld for the reasions stated in point (1), furthermore the HTTP GET feature shows the address of the recipient. Applicant is neglecting the fact that an email is a document and that once the email is displayed, the response is sent to the server computer from the client. By this rationale, the rejection is maintained.